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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
RCA 89,041

First named inventor: **DANIEL R. SCHNEIDEWEND**

CUSTOMER NO.: 24498

Application No.: **09/190,309**

Art Unit: **2421**

Filed: **November 12, 1998**

Examiner: **Jason P. Salce**

**Title: A SYSTEM FOR PROCESSING PROGRAMS AND SYSTEM TIMING INFORMATION DERIVED
FROM MULTIPLE BROADCAST SOURCES**

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee; (**NOT REQUIRED; PREVIOUSLY PAID**)
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity - fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee **PETITION FEE NOT REQUIRED - PREVIOUSLY PAID ON 02/24/09**
(37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in
the form of **AMENDMENT & RCE** (identify type of reply):

☐ has been filed previously on _____

☒ is enclosed herewith.

B. The issue fee of \$ _____

☐ has been paid previously on _____

☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450,

3. Terminal disclaimer with disclaimer fee

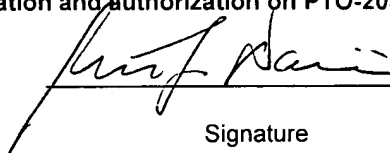
- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity or \$_____ for other than a small entity) disclaiming a period equivalent to the period of abandonment is enclosed herewith (see PTO/SB/63).

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

April 16, 2009

Date



Signature

Telephone
Number: (609) 734-6817

BRIAN J. DORINI

Typed or printed name

Thomson Licensing LLC

Address

P. O. Box 5312, Princeton, NJ
08543-5312

Address

Enclosures: ☐ Fee Payment (PREVIOUSLY PAID)

- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☒ Other : **RENEWED PETITION UNDER 37 CFR 1.137(b) LETTER**

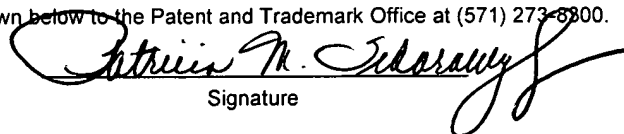
CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(A)]

I hereby certify that this correspondence is being:

- ☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **ATTENTION: OFFICE OF PETITIONS, Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
- ☐ transmitted by facsimile on the date shown below to the Patent and Trademark Office at (571) 273-8800.

April 16, 2009

Date



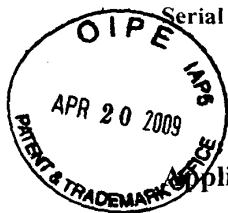
Signature

Patricia M. Fedorowycz

Typed or printed name of person signing certificate

CUSTOMER NO.: 24498
Serial No.: 09/190,309

PATENT
RCA 89,041



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: DANIEL RICHARD SCHNEIDEWEND ET AL.
Serial No.: 09/190,309
Filed: November 12, 1998
For: A SYSTEM FOR PROCESSING PROGRAMS AND
SYSTEM TIMING INFORMATION DERIVED
FROM MULTIPLE BROADCAST SOURCES
Examiner: J. P. Salce
Group Art Unit: 2421

RENEWED PETITION UNDER 37 CFR 1.137 (b)

ATTENTION: OFFICE OF PETITIONS
Mail Stop: PETITIONS
Commissioner For Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants filed a Petition for Revival of an Application for Unintentional Abandonment (Under 37 CFR 1.137(b)) on February 24, 2009. The Petition was DISMISSED in a decision mailed March 30, 2009, for failure to submit a proper reply. A copy of that decision is attached.

Applicants discussed the Petition with Mr. Cliff Congo on April 9, 2009. Mr. Congo told the Applicants that a Renewed Petition Under 37 CFR 1.137(b) could be submitted, and that the Renewed Petition should include a proper reply, but should NOT include another petition fee.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in a postage paid envelope addressed to: **ATTENTION: OFFICE OF PETITIONS, Mail Stop: PETITIONS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450** on the date indicated below

April 16, 2009
Date

Patricia M. Fedorowycz
Patricia M. Fedorowycz

Under MPEP 706.07(h), a proper reply typically includes an Amendment and an RCE. Accordingly, along with this paper and a new petition form, Applicants include an Amendment, an RCE, and the RCE fee. Applicants are also including an IDS.

To assist the USPTO in reviewing this Renewed Petition, I note the following:

1. An RCE is proper after a BPAI decision. 37 CFR 1.114 allows for an RCE after a BPAI decision, but before an appeal of the BPAI decision:

37 CFR 1.114 Request for Continued Examination.

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in §1.17(e) prior to the earliest of:

- (1) Payment of the issue fee, unless a petition under §1.313 is granted;
- (2) Abandonment of the application; or
- (3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

If this Renewed Petition is granted, then this case will be prior to all three of the above events because (1) no Issue Fee has been paid, (2) the case will no longer be abandoned, and (3) the BPAI decision has not been appealed.

Indeed, MPEP 706.07(h) specifically contemplates the filing of an RCE after a BPAI decision. MPEP 706.07(h) states in part:

The filing of an RCE (accompanied by the fee and a submission) after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit (Federal Circuit) or the commencement of a civil action in federal district court, will also result in the finality of the rejection or action being withdrawn and the submission being considered.

2. Because the present "submission" includes amendments, the "submission" is proper. MPEP 706.07(h) specifically contemplates that such an RCE filed after a BPAI decision will be proper if the submission includes amendments:

As such, a submission [accompanying an RCE after a BPAI decision] containing arguments without either amendment of the rejected claims or the submission of a showing of facts will not be effective to remove such rejection.

In the present Renewed Petition, we have included amendments.

If there are any questions, please feel free to contact the undersigned by phone.

Please charge the RCE fee of \$810, and any other fees that may be due, and/or credit any overpayments, to Deposit Account No. 07-0832.

Respectfully submitted,

DANIEL R. SCHNEIDEWEND ET AL.

By:



Brian J. Dorini
Attorney for Applicants
Registration No. 43,594
Telephone No. (609) 734-6817

BJD:pdf

Thomson Licensing LLC
Patent Operations
P.O. Box 5312
Princeton, NJ 08543-5312

April 16, 2009

Attachment: Copy of Decision on Petition
dated March 30, 2009



UNITED STATES PATENT AND TRADEMARK OFFICE

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APR - 6 2009

89041 US NP



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOSEPH S TRIPOLI
PATENT OPERATIONS GE AND RCA
LICENSING MANAGEMENT OPERATION INC
PO BOX 5312
PRINCETON NJ 08543-5312

COPY MAILED

① PETN DISMISSED MAR 30 2009

Event	② PETN CFR 1.137(B)	OFFICE OF PETITIONS
Deadline	30/05/09	
Entered	R 07/04/09	

In re Application of
Schneidewend, et al.
Application No. 09/190,309
Filed: November 12, 1998
Attorney Docket No. RCA89.041

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 24, 2009, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is **not** a final agency decision within the meaning of 5 USC 704.

The above application became abandoned for failure to timely seek a rehearing or judicial review of the decision by the Board of Patent Appeals and Interferences, mailed September 8, 2008. Pursuant to 37 CFR 41.52 and 37 CFR 1.304, applicants had two months to seek rehearing or judicial review. Neither having been sought, the application became abandoned on November 9, 2008. The Office mailed a Notice of Abandonment on November 21, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date

for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

With the instant petition, applicants have filed an Amendment. An Amendment is not a proper reply in the instant situation. The Board decision, sustaining the Examiner in full, did not set forth any new grounds of rejection under 37 CFR 41.50(b).

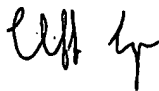
The petition fee of \$1620 has been charged to Deposit Account No. 07-0832, as authorized.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (571)273-8300
 Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions